

**LASSEN SUPERIOR COURT  
DEPARTMENT ONE  
TENTATIVE RULINGS**

**October 4, 2010**

**Hon. F. Donald Sokol, Presiding**

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**(NOTE TO COUNSEL AND PARTIES: The court provides tentative rulings on law and motion matters only for information to the parties in preparation for the hearing. The court does NOT issue tentative rulings pursuant to California Rule of Court 3.1308, and the procedure set out in that Rule does not apply.)**

**[Record Disclosures by Judge Sokol: Ms. Donna Talley is a court Guardianship/Conservatorship Investigator. Ms. Nina Dupont-Stone, M.A. is a court Mediator. Ms. Diane Tetreault, M.A. is a court Mediator. Mr. Jon Nakanishi is the court Family Law Facilitator.]**

**8:00 CALENDAR**

**#FL49747**

**McKern, Donald v. McKern, Bonnie  
Trial Setting Conference**

**At the time of review Petitioner had not filed a Statement of Issues, Contentions and Proposed Disposition of the Case, a Statement of Agreement and Disagreement, Property Declarations and Income and Expense Declarations all as required by Local Rule 1.7(a)(1). The matter will be continued to allow Petitioner to comply with the Rule if these items are not received by the date of hearing.**

**#FL47938**

**Johnston, Leandra v. Johnston, Owen  
Motion re Change of Venue**

**The motion of Petitioner for change of venue will be considered by the court to be a motion to decline continuing jurisdiction pursuant to Family Code Section 3427.**

**Based upon the information contained in the motion filed September 9, 2010 the court will find itself an inconvenient forum and pursuant to Family Code Section 3427(c) will stay the proceedings herein upon condition that a child custody proceeding will be promptly commenced in Churchill County, Nevada and the May 3, 2010 Custody and Visitation Order will be registered therein forthwith.**

**The request of Petitioner for an award of attorney fees will be denied since she provides no basis for the relief under Code of Civil Procedure Section 396b(b). Such relief is reserved for parties who have successfully moved for transfer following commencement of proceedings in an improper venue or jurisdiction, neither of which has been alleged herein, and in addition Petitioner is the party that commenced proceedings in Lassen County.**

**#FS48884**

**Cullison, Michelle v. Cullison, Brent**

**Motion re Support filed by Petitioner**

**Motion re Modification of Custody, Visitation and Injunctive Order filed by Respondent**

**The parties will be referred to mediation with respect to the custody and visitation issues to determine whether an agreement can be reached, to return to court at 4:00 p.m. If no agreement is reached the court will either accept the recommendation of mediation or set the matter for an evidentiary hearing.**

**The issue of child support will be deferred to Department 7 since DCSS is a party to the case and a hearing has been set for October 28, 2010.**

**The request of Petitioner to terminate jurisdiction to award spousal support, to distribute the parties' community and quasi-community property and to order dissolution will be denied. These issues are properly addressed at trial, by agreement of the parties, or through bifurcation proceedings.**

**#FS50667**

**Hastie, Donna v. Hastie, Steven**

**Order to Show Cause re Spousal Support**

**At the time of review no proof of service of the Order to Show Cause re Spousal Support had been filed. If no proper proof of service is filed by the hearing date the matter will be taken off calendar unless Respondent appears and waives and service defect in which case he will be instructed to file an Income and Expense Declaration and the parties will be referred to the Family Law Facilitator for calculation of guideline spousal support.**

**#DV51036**

**Lucero, Danielle v. Ayers, Joshua**

**Order to Show Cause re Custody, Visitation and Temporary Restraining Order**

**The parties will be referred to Family Court Services to determine whether an agreement can be reached on the domestic violence issues only, to return to court at 4:00 p.m. If no agreement is reached the court will set a date for an evidentiary hearing on the domestic violence issues only**

**Custody and visitation issues remain with the Klamath County Circuit Court in Oregon as decided at the August 3, 2010 hearing on jurisdictional issues.**

**#FS50796**

**O'Brien, Monica v. O'Brien, Craig**

**Order to Show Cause re Custody, Visitation and Temporary Restraining Order**

**The parties will be referred to Family Court Services to determine an agreement can be reached on the domestic violence issues only, to return to court at 4:00 p.m. If no agreement is reached the court will set a date for an evidentiary hearing on the domestic violence issues only.**

**Upon resolution of the domestic violence issues the parties will be referred to mediation on the remaining custody and visitation issues.**

**#FS51032**

**Walsh, Elizabeth v. Walsh, Patrick**

**Order to Show Cause re Custody, Visitation and Temporary Restraining Order**

**The parties will be referred to mediation on the domestic violence issues only, to return to court at 4:00 p.m. If no agreement is reached the court**

will set the matter for an evidentiary hearing on the domestic violence issues. After the domestic violence issues are resolved the parties will be referred back to mediation on remaining custody and visitation issues and once these issues are resolved Respondent will be ordered to complete and file an Income and Expense Declaration and the parties will be referred to the Family Law Facilitator for calculation of guideline support.

**#FL50970**

**Morgan, Freddie v. Butterfield, Jessica**

**Order to Show Cause re Custody and Temporary Orders**

The parties will be referred to Family Court Services to determine whether an agreement can be reached, to return to court October 25, 2010 at 4:00 p.m. If no agreement is reached the court will either accept the recommendation of mediation or set the matter for an evidentiary hearing.

**#FL50974**

**Sanson, Heather v. Hargis, Delbert**

**Order to Show Cause re Custody, Visitation and Temporary Orders**

At the time of review no proof of service of the Order to Show Cause had been filed. If no proper proof of service is filed by the date of the hearing the matter will be taken off calendar unless Respondent appears and waives the service defect in which case the parties will be referred to Family Court Services to determine whether an agreement can be reached, to return to court at 4:00 p.m. If there is no agreement the court will either accept the mediator's recommendation or set the matter for an evidentiary hearing.

**#FL50979**

**Stovall, Brenda v. Wolf, John**

**Order to Show Cause re Custody, Visitation and Temporary Orders**

At the time of review no proof of service had been filed. If no proof of service is filed by the date of the hearing the matter will go off calendar unless Respondent appears and waives the service defect in which case the parties will be referred to mediation to determine whether an agreement can be reached, to return to court at 4:00 p.m. If no agreement is reached the court will either accept the recommendation of mediation or set the matter for an evidentiary hearing.

**#FL50995**

**Quijada, Roberto v. Hefner, Vanessa**

**Order to Show Cause re Custody, Visitation and Temporary Orders**

The parties will be referred to mediation to determine whether an agreement can be reached, to return to court at 4:00 p.m. If there is no agreement the court will either accept the recommendation of mediation or set the matter for an evidentiary hearing

**#FS31909**

**County of Lassen v. Peterson, James**

**Order to Show Cause re Modification of Custody, Visitation and Support**

There is a pending CPS referral. Family Court Services requests a continuance to November 1, 2010 at 4:00 p.m., which will be granted.

**#FS44162**

**Cordoba, Jeanette v. Cordoba, Keith**

**Order to Show Cause re Modification of Custody, Support, Visitation and Temporary Orders**

The matter will be taken off calendar for defective service since the Order to Show Cause was not served until September 22, 2010, only 8 court days prior to the hearing. Code of Civil Procedure Section 1005(b) requires motions to be served at least 16 court days before the hearing date. If Petitioner appears and waives the service defect the parties will be referred to mediation to determine whether an agreement can be reached, to return to court at 4:00 p.m. If no agreement is reached the court will either accept the recommendation of mediation or set the matter for an evidentiary hearing.

**#FL47925**

**Harrison, Cary v. Bond, Kandise**

**Order to Show Cause re Contempt**

The court will inform the Respondent of the charges contained in the Order to Show Cause re Contempt and if she is not represented by an attorney an attorney will be appointed for her and the matter set for arraignment.

**#FS36159**

**Lee, Rhonda v. Lee, Don**  
**Appearance and Examination of Judgment Debtor**

**At the time of review no proof of service of the Application and Order for Appearance and Examination of Judgment Debtor had been filed. If no proper proof of service is filed by the hearing date the matter will be taken off calendar unless Respondent appears and waives the service defect in which case he will be ordered to furnish Petitioner with information to aid her in enforcement of the money judgment.**

**1:30 CALENDAR**

**#45679**

**Allen, Norman v. Summit Financial**  
**Motion for Further Specificity in Order Denying Motion for Summary Judgment/Adjudication**

**Since the Hon. John P. Moran rendered the Order Denying the Motion of Defendant Evans Appraisal Service, Inc. for Summary Judgment this matter will be referred to Judge Moran's calendar on the 12th day of October, 2010 at 8:00 a.m.**

**#45938**

**Mountain Meadows Conservancy v. County of Lassen**  
**Motion for Order Establishing Length of Reply Memorandum**

**Based upon the respective arguments of Petitioners and Respondents the court is inclined to limit the length of the reply brief of Petitioners to 30 pages.**

**#50597**

**Sierra Cascade Nursery v. Diaz, Efrain**  
**Motion for Change of Venue**

**At the time of review this file was not available to the court.**

**#50512**

**Tindell, Randy v. Bradley, Christine**  
**Demurrer and Motion to Strike**

**With respect to the Special Demurrer of Defendant to the First Cause of Action and its alleged failure to state a cause of action for declaratory relief, there is no necessity for declaratory relief to preserve Plaintiff's legal rights. Urgency for declaratory relief is not necessary and a remedy at law exists that is plain and reasonable namely, the cause of action for fraud.**

**Plaintiff has failed to plead with specificity the alleged fraud in that the elements of intent to rely is not specifically pled nor that Defendant knowingly made the false representations to Plaintiffs to induce them to act. Since the Third Cause of Action for Fraud fails to state facts sufficient to constitute a cause of action the request to strike the exemplary damages prayer is also appropriate and will be granted without prejudice. The Plaintiff will be given 30 days to amend as to the moving Defendant.**

**#47093**

**In the Matter of Wall, Robin  
Order to Show Cause for Failure to Prosecute**

**California Rules of Court 3.1340 provides that discretionary dismissal can occur after two years for delay in prosecution. This matter was filed June 18, 2008. The Order to Show Cause re Court Dismissal was filed and served August 26, 2010 and no response has been filed. Unless Petitioner appears with reasonable objections the court will dismiss the matter pursuant to rule 3.1340.**

**#48809**

**Slemmer, Daniel v. McDonald, Mike  
Order to Show Cause for Failure to Prosecute**

**California Rules of Court 3.1340 provides discretionary dismissal can occur after two years for delay in prosecution. In this matter the petition was filed May 18, 2009 and therefore the two years will not expire until May 18, 2011. Therefore a California Rules of Court 3.1340 dismissal is not timely and the Order to Show Cause will therefore be discharged.**

**#CHW2741**

**In the Matter of Roberts, Paul  
Motion to Vacate Evidentiary Hearing and Dismiss Habeas Petition as Moot**

The issue presented by the Petition for Writ of Habeas Corpus was the non-repair of the wheelchair of Petitioner. Petitioner's Opposition filed September 28, 2010 to the Motion to Dismiss the Petition for Writ of Habeas Corpus as Moot makes it clear that the issue raised by the writ has been rendered moot by reason of the fact that the physical condition of Petitioner has changed so that he no longer requires a wheelchair. Therefore the court will vacate the hearing set for October 26, 2010 to determine the condition of the wheelchair and the court will order Respondent to credit to the trust account of Petitioner with any and all funds deducted therefrom for repairs to the wheelchair of Petitioner which were not utilized for that purpose.

**#P7366**

**Conservatorship of Richardson, Ashlee  
Biennial Review and Accounting**

**A. Biennial Review.**

The court has reviewed the report of the court investigator and finds that Conservatorship over the estate continues to be necessary and shall continue. The court further finds the Conservatorship of the person of the Conservatee Ashlee Richardson is no longer necessary and is terminated.

**B. First Account and Request for Surcharge**

Rebecca Anderson, the original Conservator, has not submitted a proper account as ordered at the hearing on July 26, 2010. Therefore the surcharge issued against the previous Conservator is changed to \$16,515.20 for unaccounted disbursements made while Rebecca Anderson was Conservator and with that addendum the First Account will be approved as submitted.

**C. Second Account and Report**

The Second Account and Report has been reviewed and will be accepted and approved. Conservator will be directed to pay itself the fee of \$412.50. Compensation for preparation and filing of the First Account by the Lassen County Public Guardian and Rebecca Anderson will be ordered to pay Lassen County Counsel the sum of \$69.90 as compensation for attorney services of Lassen County Counsel to Lassen County Public Guardian for the First Accounting.

**#P7491**



**Conservatorship of Binkley, Juanita  
Status Review Hearing, Objection to Surcharge Settlement Agreement  
Signed, Trial Setting for Account Shortages**

The court was informed at the hearing on August 30, 2010 that all parties had signed a Settlement Agreement but Ms. Jones had not received a signed copy from Mr. Fallat, attorney for Western Surety Company. Ms. Jones was directed to submit the stipulation when she received it so the matter could be taken off calendar. At the time of review the court had not received the Settlement Agreement. On the other hand, the court has received a filing on September 27, 2010 from the Law Offices of John L. Fallat, Esq. consisting of a Motion to Consolidate the within action with an action entitled *Western Surety Company, a South Dakota Corporation, Plaintiff v. Evelyn Wolfram and Does I-100, Defendants*, indicating that a settlement has not been achieved. The Motion to Consolidate is set for hearing October 25, 2010 at 1:30 p.m. and therefore the court will continue the within matter to the date of the hearing on the Motion to Consolidate, October 25, 2010 at 1:30 p.m.

**#P6763**

**Conservatorship of Farris, Kelli  
Biennial Review**

The court has reviewed the Court Investigator's Report filed September 17, 2010 and finds that all notices have been given according to law, the Conservatorship is still necessary and shall continue. The court further finds the Conservators are acting in Conservatee's best interest and all of their transactions and actions will be approved. The clerk is to notify the investigator and all parties of the next review hearing.

**#P7863**

**Guardianship of Millsap, Charlee  
Appointment of Guardian of Minor**

At the time of review the court investigator's report had not been filed. If no report is received prior to the hearing the court will continue the matter to October 25, 2010 at 1:30 p.m. to allow the investigator time to file her report. All temporary orders will remain in effect.

**#P7864**

**Guardianship of McCabe, Cassius  
Appointment of Guardian of Minor**

Petitioner has not filed a Notice of Hearing and has not notified the parents of the hearing. The court will therefore continue the matter to allow proper notice to occur with temporary orders remaining in effect. Petitioner has failed to file her Consent to Act as Guardian.

**#P7865**

**Guardianship of Hamm, Kelsey  
Appointment of Guardian of Minor**

At the time of review the investigator's report had not been submitted. If said report is submitted prior to the hearing the court will review the same and make appropriate orders at the hearing. If the investigator's report is not received by the time of the hearing the court will continue the matter to October 14, 2010 when Alysha Hamm's Petition for Termination of the Guardianship is set for hearing. All temporary orders will remain in effect.

**#P7867**

**Guardianship of Keefer, Natalie  
Appointment of Guardian of Minor**

The court will grant the request of the court investigator for a continuance to October 25, 2010 at 1:30 p.m.

**4:00 CALENDAR**

**#31075**

**Grosso, Kelly v. Woolam, Brenda  
Report of Mediator**

At the time of review no report had been received from mediation. If the report is not received prior to the date of the hearing the court will continue the matter to 4:00 p.m. on October 14, 2010 in order to give mediation additional time to prepare a report.

**#FL49960**

**Staggs, Melissa v. Spang, Dwight  
Report of Mediator on Temporary Restraining Order**

**The parties having been unable to reach an agreement the court will set an evidentiary hearing on the domestic violence issues only. The Temporary Restraining Order will remain in full force and effect until the hearing date.**

**#FL50815**

**Bryant, Katica v. Abaca, Hasan**

**Report of Mediator on Visitation and Remaining Issues**

**An Interim Child Custody Order has been submitted by mediation which amends the Interim Order filed September 13, 2010. Copies of the Interim Order have been served on the parties. The court will hear any arguments from the parties on the Amended Interim Child Custody Order and make any modifications the court deems necessary.**

**#FL50907**

**Whitley, Norman v. Whitley, Maryjean**

**Report of Family Law Facilitator**

**At the time of review the court had not received the report of the Family Law Facilitator with respect to guideline spousal support and pendente lite attorney fees for the Respondent. The court anticipates it will be receiving such report prior to the hearing and will make appropriate orders based thereon.**